

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

**DILLSBURG VENTURES, LLC,**  
**Plaintiff**

**v.**

**CARROLL TOWNSHIP, YORK  
COUNTY,**  
**Defendant**

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**CIVIL ACTION NO. 1:10-CV-275**

**(Judge Conner)**

**MEMORANDUM**

Presently before the court are defendant Carroll Township's Objections to the Report and Recommendation of the Honorable William T. Prince, United States Magistrate Judge (Doc. 13) dated November 22, 2010. Carroll Township objects to Judge Prince's conclusion that the mediated agreement between it and plaintiff, Dillsburg Ventures, LLC, survived Carroll Township's withdrawal of its appeal pending before the Commonwealth Court. Carroll Township also objects to Judge Prince's conclusion that defendant breached the mediated agreement.

For the reasons cogently set forth in the Report and Recommendation, I conclude that the mediated agreement is enforceable and that performance of contractual obligations thereunder survive Carroll Township's withdrawal of its appeal. However, I find merit in Carroll Township's objection to the Report's *conclusion* that it breached the mediated agreement because the parties dispute not only the nature and extent of their respective obligations, but also their substantial performance. Hence, the resolution of these issues is better suited for summary judgment proceedings.

An appropriate order is attached.

S/ Christopher C. Conner  
CHRISTOPHER C. CONNER  
United States District Judge

Dated:        March 18, 2011

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**CARROLL TOWNSHIP, YORK**  
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**CIVIL ACTION NO. 1:10-CV-275**  
**(Judge Conner)**

**ORDER**

AND NOW, this 18th day of March, 2011, for the reasons set forth in the accompanying memorandum, it is hereby ORDERED that:

- (1) The Report and Recommendation of Honorable William T. Prince (Doc. 13) are ADOPTED with the exception of the Report's conclusion that defendant Carroll Township breached the parties' mediated agreement.
- (2) The motion to dismiss (Doc. 4) is DENIED.
- (3) The parties are directed to meet and confer on the subject of a pretrial schedule and to submit a proposed schedule to the Court within ten (10) days.

S/ Christopher C. Conner  
CHRISTOPHER C. CONNER  
United States District Judge